



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/768,482	01/23/2001	Greg Wiggins	4242.1 P	1535

7590 08/27/2003

Lloyd W. Sadler or Daniel P. McCarthy
Parsons Behle & Latimer
Suite 1800
201 South Main Street
Salt Lake City, UT 84111-2218

EXAMINER

VO, TED T

ART UNIT

PAPER NUMBER

2122

DATE MAILED: 08/27/2003

6

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/768,482	WIGGINS ET AL.
Examiner	Art Unit	
Ted T. Vo	2122	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.

• If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.

• If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.

• Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

• Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 23 January 2001 .

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-3 is/are pending in the application.

4a) Of the above claim(s) 2 is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1 and 3 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) 2 are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. _____.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s). _____
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)
3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 6) Other: _____

DETAILED ACTION

1. This action is in response to the application filed on 1/23/2001.

Claims 1-3 are original claims.

Claim 2 is subject to a restriction/elections.

Claims 1-3 are pending in the application.

Election/Restrictions

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1, 3 are drawn to a system and a method comprising means for migrating an upgrading application file in a network, classified in class 717, subclass 173.
- II. Claim 2 is drawn to a method comprising means for configuring an installed file, classified in class 717, subclass 121.

The inventions are distinct, each from the other because of the following reasons:

Inventions II, and I are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case, the invention I has a separate utility for migrating, the invention II has a separate utility for configuring.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with applicant's representative, Mr. Lloyd Sadler, on 8/19/03, Mr. Sadler asked the examiner that he will reply after consulting the inventors for a decision; if no reply was made, he would have the Examiner to elect the group I with traverse to prosecute the invention of group I, claims 1 and 3.

Affirmation of this election must be made by applicant in replying to this Office action. Claim 2 is withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Kahani, WWWCopy™ Version 1.1 (a description of a download version appeared in the Internet, July 1997).

Given the broadest reasonable interpretation of followed claims in light of the specification.

As per claim 1:

Regarding claim limitation: ***“A system for describing and extracting application information, comprising:***

(A) a first computer system, said first computer system further comprising:(1) an input device; (2) a display device; and (3) a processing unit, said processing unit further comprising:(a) a processor;(b) memory; and(c) a long-term storage device; (inherent in a computer, at given URL, e.g. see figure on p.2, at “[http://130.130.88.201/...](http://130.130.88.201/)”)

(B) a second computer system, said second computer system further comprising:(1) an input device; (2) a display device; and (3) a processing unit, said processing unit further comprising:(a) a processor;(b) memory; and(c) a long-term storage device; (inherent in a computer, at local site running the display window on p.2)

(C) an application program resident on said long term storage device of said processing unit of said first computer system (inherent in a file directory in a computer, memory of the computer at given URL so that "shareware" can be downloaded/distributed); **and**

(D) a means for migrating said application program from said first computer to said second computer, (inherent in a modem installed in a computer)

Kahani describes a shareware comprising: **wherein said means for migrating further comprises:** (1) **an application interface file, in an INI format**, (see page 1, Table of contents, '.ini file format') **wherein said application interface file further comprises a tag that identifies a feature of said application program** (see page 5, section 3.4, [PREF], FRAME, IMG, in .ini file format); **and (2) a communication channel between said first computer system and said second computer system** (see page 2, 'http://... ' shown in a popup window).

-Kahani discusses a 'WWWCopy shareware' (application program) that is stored in a first computer, provided (downloaded) to second computer. A WWWCopy is packed in a WWWCopy.zip and installed in the second computer (see page 3, section 3.1, 'How to install WWWCopy'), where the WWWCopy.zip includes file WWWCopy.ini in INI format, and where the format includes tags such as PREF tag, or tags linked to HTML such as FRAME, IMG, etc. (see page 5, section 3.4). When the WWWCopy is run in combined with a URL page (page 1, section 1, 'What is WWWCopy'), tag preferences in the INI format file will be described in a popup window (Dialog window of page 4). The popup window shows containing information of the WWWCopy shareware.

As per claim 3:

Kahani describes a method comprising:

(A) loading a Personality Package (see page 3, section 3.1, 'WWWCopy.zip');

(B) executing said Personality Package (see page 3, section 3.1, '2. Unzip WWWCopy');

(C) getting a file; (D) copying said file; (see popup window in page 2, with 'f:\copy' and button 'Browse' that allows to search for a file);

(E) getting a registry; (F)copying said registry; (see popup window in page 2, with 'f:\copy' and buttons 'Browse' and 'Start' that allow a search filed to be copied)

(G) getting application version specifics; (shown in display windows, page 2)

and (H)updating links (URL address or f:\copy in the popup window in page 2 is writable path).

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Microsoft Window 98, "Year 2000 Update README file", <http://www.cc.jyu.fi/~kky/atk/windows/y2k/w98eng/y2k.txt>, pages 1-6, 1998.

Johnson et al., US No. 6,212,532.

Flynn et al., US No. 5,347,653.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ted T. Vo whose telephone number is (703) 308-9049. The examiner can normally be reached on Monday-Friday from 8:00 AM to 5:30 PM ET. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Dam, can be reached on (703) 305-4552.

The fax phone numbers for this Group are:

Official: (703) 746-7239; After Final: (703) 746-7238; Non-Official: (703) 746-7240.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.


TUAN Q. DAM
PRIMARY EXAMINER

TTV
August 21, 2003